



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XE459**

**Notice of Intent to Prepare an Environmental Impact Statement for Sea Turtle Conservation and Recovery Actions in Relation to the Southeastern United States Shrimp Fishery and to Conduct Public Scoping Meetings**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of intent to prepare an environmental impact statement and conduct public scoping meetings.

**SUMMARY:** We (NMFS) intend to prepare an environmental impact statement (EIS) and to conduct public scoping meetings to comply with the National Environmental Policy Act (NEPA) by assessing potential impacts resulting from the proposed implementation of new sea turtle regulatory requirements in the shrimp fishery of the southeastern United States. These requirements are proposed to protect threatened and endangered sea turtles in the western Atlantic Ocean and Gulf of Mexico from incidental capture, and would be implemented under the Endangered Species Act (ESA).

**DATES:** The public scoping period starts [*insert date of publication in the FEDERAL REGISTER*] and will continue until [*insert date 45 days after date of publication in the FEDERAL REGISTER*]. We will consider all written comments received or postmarked by [*insert date 45 days after date of publication in the FEDERAL REGISTER*], in defining the scope of the EIS. Comments received or postmarked after that date will be

considered to the extent practicable. Verbal comments will be accepted at the scoping meetings as specified below.

**ADDRESSES:** We will hold public scoping meetings to provide the public with an opportunity to present verbal comments on the scope of the EIS and to learn more about the proposed action from NMFS officials. Scoping meetings will be held at the following locations:

1. Morehead City -- Crystal Coast Civic Center, 3505 Arendell Street, Morehead City, NC 28557.
2. Larose -- Larose Regional Park and Civic Center, 307 East 5th Street, Larose, LA 70373.
3. Belle Chasse -- Belle Chasse Auditorium, 8398 Highway 23, Belle Chasse, LA 70037.
4. Biloxi -- Biloxi Visitor's Center, 1050 Beach Boulevard, Biloxi, MS 39530.
5. Bayou La Batre -- Bayou La Batre Community Center, 12745 Padgett Switch Road, Bayou La Batre, AL 36509.

The meeting dates are:

1. April 13, 2016, 2 p.m. to 4 p.m., Morehead City, NC.
2. April 18, 2016, 4 p.m. to 6 p.m., Larose, LA.
3. April 19, 2016, 4 p.m. to 6 p.m., Belle Chasse, LA.
4. April 20, 2016, 5 p.m. to 7 p.m., Biloxi, MS.
5. April 21, 2016, 2 p.m. to 4 p.m., Bayou La Batre, AL.

In addition to the five scoping meetings, we will also submit a scoping document to the Gulf of Mexico and South Atlantic Fishery Management Councils, and the Atlantic and Gulf States Marine Fisheries Commissions.

Written comments on the scope of the EIS should be sent electronically via e-mail

to *Michael.Barnette@noaa.gov*, or physically via U.S. mail to Michael Barnette, Southeast Regional Office, Protected Resources Division, 263 13th Ave. South, St. Petersburg, FL 33701-5505. Additional information, including a scoping document, can be found at: <http://www.nmfs.noaa.gov/pr/species/turtles/regulations.htm>.

All comments, whether offered verbally in person at the scoping meetings or in writing as described above, will be considered.

**FOR FURTHER INFORMATION CONTACT:** Michael Barnette, NMFS, Southeast Regional Office, at the address above, or at (727) 824-5312.

**SUPPLEMENTARY INFORMATION:**

**Background**

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the ESA. The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. The green (*Chelonia mydas*) and the Northwest Atlantic Ocean distinct population segment (DPS) of the loggerhead (*Caretta caretta*) are listed as threatened, except for breeding populations of green sea turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered; on March 23, 2015 (80 FR 15271), NMFS and U.S. Fish and Wildlife Service proposed to remove the existing ESA listings for the green sea turtle and, in their place, list three endangered (Mediterranean, Central West Pacific and Central South Pacific) and eight threatened (North Atlantic, South Atlantic, Southwest Indian, North Indian, East Indian-West Pacific, Southwest Pacific, Central North Pacific, and East Pacific) DPSs.

Sea turtles are incidentally taken, and some are killed, as a result of numerous

activities, including fishery-related trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. The incidental taking of threatened turtles during shrimp trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223.205) are followed. The regulations require most vessels defined as “shrimp trawlers” (50 CFR 222.102) operating in the southeastern United States (Atlantic or Gulf area, see 50 CFR 223.206) to have a NMFS-approved TED installed in each net that is rigged for fishing to allow sea turtles to escape. TEDs currently approved include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, and one type of soft TED - the Parker soft TED (see 50 CFR 223.207). Most approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape. The regulations also describe additional hard TEDs’ specific requirements. Skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls), however, may employ alternative tow time restrictions in lieu of TEDs, pursuant to 50 CFR 223.206(d)(2)(ii)(A). The alternative tow time restrictions limit tow times to 55 minutes from April 1 through October 31, and 75 minutes from November 1 through March 31.

TEDs incorporate an escape opening, usually covered by a webbing flap, which

allows sea turtles to escape from trawl nets. To be approved, a TED design must be shown to be 97 percent effective in excluding sea turtles during testing based upon NMFS-approved scientific testing protocols (50 CFR 223.207(e)(1)). NMFS-approved testing protocols established to date include the “small turtle test” (55 FR 41092, October 9, 1990) and the “wild turtle test” (52 FR 24244, June 29, 1987). Additionally, we have established a leatherback model testing protocol to evaluate a candidate TED’s ability to exclude adult leatherback sea turtles (66 FR 24287, May 14, 2001). Because testing with live leatherbacks is impossible, we obtained the carapace measurements of 15 nesting female leatherback turtles and used these data to construct an aluminum pipe-frame model of a leatherback turtle measuring 40 inches (101.6 cm) in width, 60 inches (152.4 cm) in length, and 21 inches (53.3 cm) in height. If the leatherback model and a diver with full scuba gear are able to pass through the escape opening of a candidate TED, that escape opening is judged to be capable of excluding adult leatherback sea turtles, as well as other large adult sea turtles.

On June 24, 2011 (76 FR 37050), we published a notice of intent to prepare an EIS and conduct scoping meetings on potential measures to reduce sea turtle bycatch in the shrimp fisheries. On May 10, 2012 (77 FR 27411), we published a proposed rule that, if implemented, would require all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) to use TEDs in their nets. We also prepared a draft environmental impact statement (DEIS), which included a description of the purpose and need for evaluating the proposed action and other potential management alternatives, the scientific methodology and data used in the analyses, background information on the physical, biological, human, and administrative environments, and a description of the effects of

the proposed action and other potential management alternatives on the aforementioned environments; a notice of its availability was published on May 18, 2012 (77 FR 29636). At the time the DEIS was prepared, information on the effects of the skimmer trawl fisheries on sea turtle populations was extremely limited. New information gained after the preparation of the DEIS indicated that a significant number of sea turtles observed interacting with the skimmer trawl fishery had a body depth that would allow them to pass between the required maximum four-inch (10.16-cm) bar spacing of a standard TED and proceed into the back of the net (i.e., they would not escape the trawl net). Therefore, the conservation benefit of expanding the TED requirement to skimmer trawls, pusher-head trawls, and wing nets was much less than originally anticipated. As a result, we determined that a final rule to withdraw the alternative tow time restriction and require all skimmer trawls, pusher-head trawls, and wing nets to use TEDs was not warranted (February 7, 2013; 78 FR 9024).

Following the withdrawal of the final rule, we initiated additional TED testing, evaluating both small sea turtle exclusion and shrimp retention within the skimmer trawl fishery. This testing has produced a TED grid with narrow bar spacing (i.e., less than the current four-inch bar spacing maximum) and escape-opening flap specifications that would allow small turtles to effectively escape the trawl net, which could be employed by skimmer and otter trawlers in areas where these small turtles occur.

### **Purpose of this Action**

NEPA requires Federal agencies to conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the quality of the human environment. We are considering a variety of regulatory measures to reduce the

bycatch of threatened and endangered sea turtles in the shrimp fishery of the southeastern United States in light of concerns regarding the effectiveness of existing TED regulations in protecting sea turtles. This EIS will provide background information and specifically evaluate the alternatives and impacts associated with any considered management alternative. This rulemaking would be implemented pursuant to the ESA. We are seeking public input on the scope of the required NEPA analysis, including the range of reasonable alternatives, associated significant impacts of any alternatives, and suitable mitigation measures.

### **Scope of the Action**

The EIS is expected to identify and evaluate the relevant significant impacts and issues associated with implementing new sea turtle regulations for the shrimp fishery of the southeastern United States, in accordance with the Council on Environmental Quality's Regulations at 40 CFR parts 1500 – 1508 and NOAA's procedures for implementing NEPA found in NOAA Administrative Order (NAO) 216-6, dated May 20, 1999.

### **Alternatives**

We will evaluate a range of reasonable alternatives in the EIS to reduce sea turtle bycatch and mortality in the shrimp fishery of the southeastern United States. In addition to evaluating the status quo, we will evaluate several other alternatives. These alternatives include, but are not necessarily limited to: requiring all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) in both the Atlantic and Gulf areas to use either modified TEDs with narrow bar spacing (i.e., less than the current four-inch bar spacing maximum) or standard TEDs; requiring all skimmer trawls, pusher-head

trawls, and wing nets in both the Atlantic and Gulf areas to use modified TEDs with narrow bar spacing; requiring all trawlers (i.e., otter trawls, skimmer trawls, pusher-head trawls, and wing nets) fishing in specific areas where small sea turtles occur to use modified TEDs with narrow bar spacing; as well as time and area closures affecting all shrimp vessels. Potential new TED requirements could apply to vessels fishing in both state and Federal waters.

### **Public Comments**

We are providing this notice to advise the public and other agencies of our intentions and to obtain suggestions and information on the scope of the significant issues to include in the EIS. Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action and all substantive issues are identified. We request that comments be as specific as possible. In particular, we are seeking information regarding the potential direct, indirect, and cumulative impacts on the human environment from the proposed action. The human environment is defined as "...the natural and physical environment and the relationship of people with that environment" (40 CFR 1508.14). In the context of the EIS, the human environment could include air quality, water quality, underwater noise levels, socioeconomic resources, fisheries, and environmental justice.

Comments concerning this environmental review process should be directed to us (see **ADDRESSES**). All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.



**Authority**

The environmental review of the proposed action will be conducted under the authority and in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR parts 1500 - 1508), NOAA Administrative Order 216-6, other appropriate Federal laws and regulations, and policies and procedures of NOAA and NMFS for compliance with those regulations.

**Scoping Meetings Code of Conduct**

The public is asked to follow the following code of conduct at the scoping meetings. At the beginning of each meeting, our representative will explain the ground rules (e.g., alcohol is prohibited from the meeting room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees may not interrupt one another). Our representative will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not will be asked to leave the meeting.

## **Special Accommodations**

The scoping meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to our representative (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the meeting. Vietnamese translation services will be provided at the Louisiana and Mississippi public hearings.

Dated: March 9, 2016.

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Donna S. Wieting,  
Director,  
Office of Protected Resources.

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